

TITLE 67
STATE GOVERNMENT AND STATE AFFAIRS

CHAPTER 53
PERSONNEL SYSTEM

67-5301. ESTABLISHMENT OF DIVISION OF HUMAN RESOURCES AND DECLARATION OF POLICY. There is hereby established the division of human resources in the office of the governor, which is authorized and directed to administer a personnel system, including the provision of personal and professional training, for classified Idaho employees. The purpose of said personnel system is to provide a means whereby classified employees of the state of Idaho shall be examined, selected, retained and promoted on the basis of merit and their performance of duties, thus effecting economy and efficiency in the administration of state government. The legislature declares that, in its considered judgment, the public good and the general welfare of the citizens of this state require enactment of this measure, under the powers of the state.

[67-5301, added 1965, ch. 289, sec. 1, p. 746; am. 1974, ch. 34, sec. 4, p. 988; am. 1977, ch. 307, sec. 2, p. 857; am. 1994, ch. 272, sec. 1, p. 837; am. 1999, ch. 370, sec. 1, p. 977.]

67-5302. DEFINITIONS. As used in this chapter, and other applicable sections of the Idaho Code, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context. Such terms and their definitions are:

(1) "Administrative employee" means any person, nonclassified or classified, appointed to a position that meets the criteria set forth in the federal fair labor standards act, 29 U.S.C. 201 et seq. Final designation of a classified position as "administrative" within this definition shall be made by the administrator of the division of human resources. Exceptions to this designation that do not violate the federal fair labor standards act, 29 U.S.C. 201 et seq., may be made by the administrator.

(2) "Administrator" means the administrator of the division of human resources in the governor's office.

(3) "Appointing authority" means the officer, board, commission, person or group of persons authorized by statute or lawfully delegated authority to make appointments to or employ personnel in any department.

(4) "Class" means a group of positions sufficiently similar as to the duties performed, degree of supervision exercised or required, minimum requirements of training, experience or skill, and other characteristics that the same title, the same tests of fitness and the same schedule of compensation may be applied to each position in the group.

(5) "Classified officer or employee" means any person appointed to or holding a position in any department of the state of Idaho, which position is subject to the provisions of the merit examination, selection, retention, promotion and dismissal requirements of [chapter 53, title 67](#), Idaho Code.

(6) "Commission" means the Idaho personnel commission.

(7) "Compensatory time" means approved time off from duty provided in compensation for overtime hours worked.

(8) "Computer worker" means any person, nonclassified or classified, appointed to a position that meets the criteria set forth in the federal fair labor standards act, 29 U.S.C. 201 et seq. Final designation of a classified position as "computer worker" within this definition shall be made by the ad-

administrator of the division of human resources. Exceptions to this designation that do not violate the federal fair labor standards act, 29 U.S.C. 201 et seq., may be made by the administrator.

(9) "Department" means any department, agency, institution or office of the state of Idaho.

(10) "Disabled veteran" is as defined in section [65-502](#), Idaho Code.

(11) "Eligible" means a person who has been determined to be qualified for a classified position and whose name has been placed on the register of eligibles.

(12) "Executive employee" means any person, nonclassified or classified, appointed to a position equivalent to a bureau chief or above as provided in section [67-2402](#), Idaho Code, or any employee meeting the following criteria:

(a) An individual whose primary duty is management of a department, division or bureau; and

(b) Who customarily and regularly directs the work of at least two (2) or more other employees therein; and

(c) Who has the authority to hire and fire, or to recommend hiring and firing; or whose recommendation on these and other actions affecting employees is given particular weight; and

(d) Who customarily and regularly exercises discretionary powers; and

(e) Who is classified to a position allocated to the pay grade equivalent to two hundred sixty (260) points or higher pursuant to the rating system established by rule.

(f) Final designation of a classified position as "executive" in this definition shall be made by the administrator. Exceptions to this designation that do not violate the federal fair labor standards act, 29 U.S.C. 201 et seq., may be made by the administrator.

(13) "Exempt employee" means any employee, classified or nonclassified, who is determined to be an executive, professional or administrative employee as defined herein, or who qualifies for any other exemption from cash compensation for overtime under applicable federal law. Final designation of a classified position as exempt shall be made by the administrator.

(14) "Full-time employee" means any employee working a forty (40) hour workweek.

(15) "Holiday" means the following:

January 1 (New Year's Day);

Third Monday in January (Martin Luther King, Jr.-Idaho Human Rights Day);

Third Monday in February (Washington's Birthday);

Last Monday in May (Memorial Day);

July 4 (Independence Day);

First Monday in September (Labor Day);

Second Monday in October (Columbus Day);

November 11 (Veterans Day);

Fourth Thursday in November (Thanksgiving);

December 25 (Christmas).

In addition, the term "holiday" shall mean any day so designated by the president of the United States or the governor of this state for a public fast, thanksgiving or holiday.

In the event that a holiday occurs on a Saturday, the preceding Friday shall be a holiday, and if the holiday falls on a Sunday, the following Monday shall be a holiday.

A holiday is a day of exemption from work granted to nonexecutive employees during which said employees shall be compensated as if they actually worked. Employees classified as executive exempt are entitled to ten (10) paid holidays per year. If such an employee works on one (1) of the official holidays listed in this subsection, then such employee may take an alternative day off but shall not receive additional compensation.

(16) "Hours worked" means those hours actually spent in the performance of the employee's job on any day including holidays and shall not include vacation or sick leave or other approved leave of absence.

(17) "Nonclassified employee" means any person appointed to or holding a position in any department of the state of Idaho, which position is exempted from the provisions of [chapter 53, title 67](#), Idaho Code, as provided for in section [67-5303](#), Idaho Code.

(18) "Normal workweek" means any forty (40) hours worked during a particular one hundred sixty-eight (168) hour period as previously established by the employee's appointing authority.

(19) "Open competitive examination" means an examination that may be taken by qualified applicants to compete on an equal basis for listing on the register of eligibles.

(20) "Overtime work" means time worked on holidays and time worked in excess of forty (40) hours in a period of one hundred sixty-eight (168) consecutive hours, except that in the case of those employees engaged in law enforcement, correctional and fire protection activities characterized by irregular shift work schedules, time worked in excess of one hundred sixty (160) hours in a period of twenty-eight (28) consecutive days shall constitute overtime work within the meaning of this chapter. Such employees may also be paid overtime for specific hours worked in addition to their normal schedules upon emergency declaration by the governor or with the approval of the appointing authority and the board of examiners.

(21) "Participating department" means any department of the state of Idaho that employs persons in classified positions subject to the merit examination, selection, retention, promotion and dismissal requirements of this chapter.

(22) "Part-time employee" means any employee whose usually scheduled work is fewer than forty (40) hours in a period of one hundred sixty-eight (168) consecutive hours, and who shall not be entitled to sick leave accruals provided in section [67-5333](#), Idaho Code, vacation leave provided in section [67-5334](#), Idaho Code, nor holiday pay as defined in subsection (15) of this section, unless contributions are being made to the public employee retirement system in accordance with [chapter 13, title 59](#), Idaho Code, and rules promulgated by the public employee retirement system board.

(23) "Personnel system" means the procedure for administering employees in accordance with this chapter.

(24) "Political office" means a public office for which partisan politics is a basis for nomination, election or appointment.

(25) "Political organization" means a party that sponsors candidates for election to political office.

(26) "Position" means a group of duties and responsibilities legally assigned or delegated by one (1) or more appointing authorities and requiring the employment of one (1) person.

(27) "Professional employee" means any person, nonclassified or classified, appointed to a position that meets the criteria set forth in the federal fair labor standards act, 29 U.S.C. 201 et seq. Final designation of a

classified position as "professional" within this definition shall be made by the administrator. Exceptions to this designation that do not violate the federal fair labor standards act, 29 U.S.C. 201 et seq., may be made by the administrator.

(28) "Provisional appointment" means appointment to a classified position pending the establishment of a register for such position, and employment shall not be continued in this status longer than thirty (30) days after establishment of a register.

(29) "Public education entity" means community colleges, public school districts, public charter schools and the Idaho digital learning academy.

(30) "Qualifying examination" means an examination or evaluation given to a selected person to determine eligibility for reclassification or appointment to a position in a classification.

(31) "Register" means a list of names of persons who have been determined to be eligible for employment in a classified position as determined on the basis of examination and merit factors as established by the administrator.

(32) "Seasonal appointment" means an appointment to a position that is permanent in nature but that has intermittent work periods throughout the year.

(33) "Service rating" means a recorded evaluation of work performance and promotional potential of an employee by his supervisor.

(34) "State educational agency" means the following state agencies and educational institutions supervised by the Idaho state board of education:

- (a) Boise state university;
- (b) Idaho state university;
- (c) University of Idaho;
- (d) Lewis-Clark state college;
- (e) Idaho public television;
- (f) The division of vocational rehabilitation;
- (g) The division of career technical education;
- (h) The office of the state board of education; and
- (i) The department of education.

(35) "Temporary appointment" means appointment to a position that is not permanent in nature and in which employment will not exceed one thousand three hundred eighty-five (1,385) hours during any twelve (12) month period. No person holding a temporary appointment may work in excess of one thousand three hundred eighty-five (1,385) hours during a twelve (12) month period of time for any one (1) department, except upon petition by the appointing authority of the department of lands that demonstrates good cause, the administrator of the division of human resources may extend the one thousand three hundred eighty-five (1,385) hour limit for employees of the department who are required to perform fire suppression activities.

(36) "Vacation leave" means a period of exemption from work granted to employees during which time said employees shall be compensated. The term shall not include compensatory time for overtime work.

(37) "Veteran" is as defined in section [65-203](#), Idaho Code.

[67-5302, added 1965, ch. 289, sec. 2, p. 746; am. 1975, ch. 164, sec. 1, p. 434; am. 1977, ch. 307, sec. 3, p. 858; am. 1979, ch. 197, sec. 1, p. 568; am. 1981, ch. 133, sec. 1, p. 222; am. 1986, ch. 133, sec. 1, p. 342; am. 1990, ch. 371, sec. 1, p. 1019; am. 1993, ch. 75, sec. 1, p. 198; am. 1993, ch. 233, sec. 1, p. 811; am. 1999, ch. 243, sec. 1, p. 616; am. 1999, ch. 370, sec. 2, p. 978; am. 2000, ch. 121, sec. 1, p. 262; am. 2002, ch.

146, sec. 2, p. 419; am. 2006, ch. 51, sec. 16, p. 152; am. 2006, ch. 380, sec. 7, p. 1181; am. 2008, ch. 138, sec. 1, p. 396; am. 2008, ch. 196, sec. 2, p. 619; am. 2016, ch. 199, sec. 1, p. 556; am. 2018, ch. 17, sec. 6, p. 26; am. 2020, ch. 44, sec. 4, p. 104.]

67-5303. APPLICATION TO STATE EMPLOYEES. All departments of the state of Idaho and all employees in such departments, except those employees specifically defined as nonclassified, shall be classified employees, who are subject to this chapter and to the system of personnel administration which it prescribes. Nonclassified employees shall be:

(a) Members of the state legislature and all other officers of the state of Idaho elected by popular vote, and persons appointed to fill vacancies in elective offices, and employees of the state legislature.

(b) Members of statutory boards and commissions and heads of departments appointed by and serving at the pleasure of the governor, deputy directors appointed by the director and members of advisory boards and councils appointed by the departments.

(c) All employees and officers in the office, and at the residence, of the governor; and all employees and officers in the offices of the lieutenant governor, secretary of state, attorney general, state treasurer, state controller, and state superintendent of public instruction who are appointed on and after the effective date of this chapter.

(d) Except as otherwise provided by law, not more than one (1) declared position for each board or commission and/or head of a participating department, in addition to those declared to be nonclassified by other provisions of law.

(e) Part-time professional consultants who are paid on a fee basis for any form of legal, medical or other professional service, and who are not engaged in the performance of administrative duties for the state.

(f) Judges, temporary referees, receivers and jurors.

(g) All employees of the Idaho supreme court, Idaho court of appeals and district courts.

(h) All employees of the Idaho state bar.

(i) Assistant attorneys general attached to the office of the attorney general.

(j) Officers, members of the teaching staffs of state educational institutions, the professional staff of the Idaho department of education administered by the board of regents and the board of education, and the professional staffs of the Idaho division of career technical education and vocational rehabilitation administered by the state board for career technical education. "Teaching staff" includes teachers, coaches, resident directors, librarians and those principally engaged in academic research. The word "officer" means presidents, vice presidents, deans, directors, or employees in positions designated by the state board who receive an annual salary of not less than step "A" of the pay grade equivalent to three hundred fifty-five (355) Hay points in the state compensation schedule. A nonclassified employee who is designated as an "officer" on July 5, 1991, but does not meet the requirements of this subsection, may make a one (1) time irrevocable election to remain nonclassified. Such an election must be made not later than August 2, 1991. When such positions become vacant, these positions will be reviewed and designated as either classified or nonclassified in accordance with this subsection.

(k) Employees of the military division.

(l) Patients, inmates or students employed in a state institution.

(m) Persons employed in positions established under federal grants, which, by law, restrict employment eligibility to specific individuals or groups on the basis of nonmerit selection requirements. Such employees shall be termed "project exempt" and the tenure of their employment shall be limited to the length of the project grant, or twenty-four (24) months, or four thousand one hundred sixty (4,160) hours of credited state service, whichever is of the shortest duration. No person hired on a project-exempt appointment shall be employed in any position allocated to the classified service.

(n) Temporary employees.

(o) All employees and officers of the following named commodity commissions, and all employees and officers of any commodity commission created hereafter: the Idaho potato commission, as provided in [chapter 12, title 22](#), Idaho Code; the Idaho honey commission, as provided in [chapter 28, title 22](#), Idaho Code; the Idaho bean commission, as provided in [chapter 29, title 22](#), Idaho Code; the Idaho hop grower's commission, as provided in [chapter 31, title 22](#), Idaho Code; the Idaho wheat commission, as provided in [chapter 33, title 22](#), Idaho Code; the Idaho pea and lentil commission, as provided in [chapter 35, title 22](#), Idaho Code; the Idaho apple commission, as provided in [chapter 36, title 22](#), Idaho Code; the Idaho cherry commission, as provided in [chapter 37, title 22](#), Idaho Code; the Idaho mint commission, as provided in [chapter 38, title 22](#), Idaho Code; the Idaho sheep and goat health board, as provided in [chapter 1, title 25](#), Idaho Code; the state brand inspector, and all district supervisors, as provided in [chapter 11, title 25](#), Idaho Code; the Idaho beef council, as provided in [chapter 29, title 25](#), Idaho Code; and the Idaho dairy products commission, as provided in [chapter 31, title 25](#), Idaho Code.

(p) All inspectors of the fresh fruit and vegetable inspection service of the Idaho department of agriculture, except those positions involved in the management of the program.

(q) All employees of correctional industries within the department of correction.

(r) All deputy administrators and wardens employed by the department of correction. Deputy administrators are defined as only the deputy administrators working directly for the nonclassified division administrators under the director of the department of correction.

(s) All public information positions, with the exception of secretarial positions, in any department.

(t) Any division administrator.

(u) Any regional administrator or division administrator in the department of environmental quality.

(v) All employees of the division of financial management, all employees of the STEM action center, all employees of the office of species conservation, all employees of the office of drug policy and all employees of the office of energy resources.

(w) All employees of the Idaho food quality assurance institute.

(x) The state appellate public defender, deputy state appellate public defenders and all other employees of the office of the state appellate public defender.

(y) All quality assurance specialists or medical investigators of the Idaho board of medicine.

(z) All pest survey and detection employees and their supervisors hired specifically to carry out activities under the Idaho plant pest act, [chapter 20, title 22](#), Idaho Code, including but not limited to pest survey, detection and eradication, except those positions involved in the management of the program.

(aa) All medical directors employed by the department of health and welfare who are engaged in the practice of medicine, as defined by section [54-1803](#), Idaho Code, at an institution named in section [66-115](#), Idaho Code.

[67-5303, added 1965, ch. 289, sec. 3, p. 746; am. 1969, ch. 171, sec. 1, p. 510; am. 1971, ch. 121, sec. 1, p. 405; am. 1972, ch. 389, sec. 1, p. 1121; am. 1973, ch. 175, sec. 1, p. 385; am. 1973, ch. 307, sec. 1, p. 667; am. 1975, ch. 164, sec. 2, p. 434; am. 1976, ch. 367, sec. 1, p. 1205; am. 1979, ch. 198, sec. 1, p. 573; am. 1981, ch. 133, sec. 2, p. 225; am. 1981, ch. 156, sec. 1, p. 267; am. 1983, ch. 5, sec. 1, p. 19; am. 1986, ch. 133, sec. 2, p. 346; am. 1986, ch. 204, sec. 1, p. 509; am. 1991, ch. 66, sec. 1, p. 160; am. 1991, ch. 216, sec. 1, p. 519; am. 1993, ch. 77, sec. 1, p. 204; am. 1994, ch. 180, sec. 219, p. 556; am. 1995, ch. 365, sec. 4, p. 1278; am. 1997, ch. 302, sec. 2, p. 900; am. 1998, ch. 221, sec. 1, p. 762; am. 1998, ch. 389, sec. 8, p. 1193; am. 1999, ch. 17, sec. 1, p. 24; am. 1999, ch. 329, sec. 27, p. 866; am. 2001, ch. 38, sec. 1, p. 72; am. 2001, ch. 103, sec. 101, p. 341; am. 2002, ch. 188, sec. 1, p. 541; am. 2002, ch. 192, sec. 1, p. 551; am. 2008, ch. 89, sec. 1, p. 247; am. 2011, ch. 30, sec. 1, p. 72; am. 2012, ch. 117, sec. 26, p. 332; am. 2015, ch. 124, sec. 9, p. 316; am. 2016, ch. 25, sec. 45, p. 61; am. 2016, ch. 33, sec. 1, p. 82; am. 2018, ch. 120, sec. 1, p. 256.]

67-5304. EXISTING MERIT SYSTEMS AND PERSONNEL SYSTEMS. The personnel system administered by the division of human resources created by this act is hereby designated as the "merit system," "civil service system" or "personnel system" as may be required by any other section of the Idaho Code for the administration of any department covered by this act; and all laws in conflict in whole or in part with the provisions of this act are hereby repealed to the extent of such conflict or inconsistency, provided, however, that in the implementation of this act those portions of [chapter 35, title 67](#), Idaho Code, requiring approval of the administrator of the division of financial management of increase in compensation for any state employee, shall not be held to apply to employees covered under this act, but all departments whose salaries and administrative costs come from state appropriations shall prepare and file the reports and estimates in the office of the administrator of the division of financial management in accordance with [chapter 35, title 67](#), Idaho Code, and personnel compensation thereunder shall not be effective until approved as being within the state budget limitations of the respective department.

[67-5304, added 1965, ch. 289, sec. 4, p. 746; am. 1986, ch. 134, sec. 1, p. 356; am. 1999, ch. 370, sec. 3, p. 982.]

67-5305. EMPLOYEES HIRED PRIOR TO ENACTMENT OF THIS ACT. (1) An employee who has had less than six (6) calendar months of service on the date his department commences participation in the personnel system shall be required to pass a suitable noncompetitive examination and satisfactorily complete a probationary period in order to be retained in a position.

(2) An employee who does not obtain a passing grade in the examination referred to in subsection (2) [(1)] of this section shall be separated from his position within thirty (30) days after the establishment of an adequate register of eligibles for such position.

[67-5305, added 1965, ch. 289, sec. 5, p. 746; am. 1986, ch. 133, sec. 3, p. 348; am. 1999, ch. 370, sec. 4, p. 983.]

67-5306. APPLICABILITY OF FEDERAL MERIT SYSTEM STANDARDS. Notwithstanding any other provision, wherever federal merit system standards are applicable to any department covered by this act, financed in whole or in part by federal funds, rules shall be established or modified by the administrator pursuant to [chapter 52, title 67](#), Idaho Code, to the extent necessary to apply such standards to personnel administration in such grant-in-aid programs, and to the positions and employees therein.

[67-5306, added 1965, ch. 289, sec. 6, p. 746; am. 1999, ch. 370, sec. 5, p. 984.]

67-5307. ORGANIZATION OF COMMISSION. (1) The Idaho personnel commission is hereby created in the office of the governor and shall consist of five (5) members, not more than three (3) of which at any time may belong to the same political party. The members of the commission shall be appointed by the governor on the basis of experience in personnel management, business or governmental management and their known sympathy with merit principles for the impartial selection of efficient state government employees; provided, however, that at least two (2) of the members shall have had at least five (5) years of personnel management experience.

(2) Members of the commission shall be appointed for overlapping terms of six (6) years, except that in the first instance one (1) member shall be appointed for two (2) years, one (1) member for four (4) years and one (1) member for six (6) years. Initial members shall be appointed to take office within thirty (30) days after the effective date of this chapter. The members of the personnel commission serving on the effective date of this chapter shall continue in office subject to the provisions of this chapter. The additional members of the commission shall be appointed one (1) for four (4) years and one (1) for six (6) years, the term of each to be designated by the governor. Their successors shall be appointed for terms of six (6) years. If, for any reason, a member should leave the commission before his term expires, the governor shall appoint another member to fill out the unexpired term.

(3) No member of the commission shall hold political office or be an officer of a political organization during his term, nor shall any member have held political office or have been an officer of a political organization during the twelve (12) months preceding his appointment. No member of the commission shall have been employed as an official or employee of the state of Idaho during the twelve (12) months preceding his appointment, nor be so employed during his term. The chairman shall be appointed by the governor prior to the first meeting of each calendar year.

(4) Any department aggrieved by any action or inaction of the division of human resources shall be afforded an opportunity for a hearing before the division upon request therefor in writing. Minutes or summary of the proceedings of all hearings shall be made and filed with the division, together with findings of fact and conclusions of law made by the division.

(5) The governor may remove a commissioner for inefficiency, neglect of duty or misconduct in office after first giving him a copy of charges against him and an opportunity to be heard publicly before the governor. A copy of the charges and a transcript of the record of the hearing shall be filed with the secretary of state.

(6) The commission shall meet at regularly scheduled intervals or on call of the chairman. Three (3) members shall constitute a quorum for the transaction of business. Members shall each be compensated as provided by section [59-509](#)(n), Idaho Code.

[67-5307, added 1965, ch. 289, sec. 7, p. 746; am. 1975, ch. 164, sec. 3, p. 434; am. 1980, ch. 247, sec. 87, p. 650; am. 1996, ch. 104, sec. 1, p. 406; am. 1998, ch. 330, sec. 1, p. 1062; am. 1999, ch. 370, sec. 6, p. 984.]

67-5308. AUTHORITY AND DUTIES OF THE DIVISION OF HUMAN RESOURCES -- SELECTION OF ADMINISTRATOR. (1) It shall be the duty of the division of human resources to administer this chapter. The administrator of the division of human resources shall have the duty, power and authority to employ such persons, make such expenditures, require such reports, make investigations, perform such travel pursuant to the provisions of this chapter, and to take such other actions as it deems necessary or suitable to that end.

(2) An administrator of the division of human resources in the office of the governor shall be appointed by the governor, shall be subject to confirmation by the senate and shall serve at the pleasure of [the] governor. The administrator shall be experienced in personnel administration. The administrator shall provide necessary support to the commission when it carries out its duties.

[67-5308, added 1965, ch. 289, sec. 8, p. 746; am. 1998, ch. 330, sec. 2, p. 1063; am. 1999, ch. 370, sec. 7, p. 985.]

67-5309. RULES OF THE DIVISION OF HUMAN RESOURCES AND THE PERSONNEL COMMISSION. The administrator of the division of human resources shall have the power and authority to adopt, amend, or rescind such rules as may be necessary for proper administration of this chapter. Such rules may include:

(a) A rule requiring the administrator, after consulting with each department, to develop, adopt, and make effective a job classification system for positions covered by this chapter, based upon an analysis of the duties and responsibilities of the positions. The job classification shall include an appropriate title for each class and a description of duties and responsibilities of positions in the classes and the requirements of minimum training, experience and other qualifications suitable for the performance of duties of the position.

(b) A rule describing the relevant labor markets and benchmark job classifications used in the administrator's salary surveys.

(c) A rule requiring that all classes of positions which are common to the departments concerned shall have the same titles, minimum requirements and compensation ranges.

(d) A rule providing for review by the administrator of the personnel system including classifications and compensation policies and procedures.

(e) A rule that, notwithstanding the procedure for examination and ranking of eligibles on a register provided in subsection (f) of this

section, an agency may appoint an individual directly into an entrance or promotional probation if the division of vocational rehabilitation, Idaho commission for the blind and visually impaired or the industrial commission certifies, with the concurrence of division of human resources staff, that the individual: (1) has a disability or handicap as defined under state or federal law; (2) is qualified to perform the essential functions of a particular classified position with or without reasonable accommodation; and (3) lacks competitiveness in the examination process due to the disability or handicap. The probationary period as provided in subsection (j) of this section shall be the sole examination for such individuals.

(f) A rule requiring fair and impartial selection of appointees to all positions other than those defined as nonclassified in this chapter, on the basis of open competitive merit examinations or evaluations. An application for an examination will be accepted after the closing date of the examination from a person who was serving in the armed forces or undergoing service-connected hospitalization up to one (1) year following discharge. The application must be submitted within one hundred twenty (120) days of separation from the armed forces or hospitalization and prior to the expiration of the register established as a result of the examination. A disabled veteran may file an application at any time up until a selection has been made for any position for which the division maintains a register as a source for future job openings or for which a register is about to be established, provided he or she has not already been examined twice for the same position and grade for which application is made, does not have current eligibility on that register, or is not serving in a competitive position in the same grade for which application is made. Examinations may be assembled or unassembled and may include various examining techniques such as rating of training and experience, written tests, oral interviews, recognition of professional licensing, performance tests, investigations and any other measure of ability to perform the duties of the position. Examinations shall be scored objectively. Five (5) points shall be added to the earned rating of any veteran as defined in section [65-203](#), Idaho Code, and the widow or widower of any veteran as defined in section [65-203](#), Idaho Code, as long as he or she remains unmarried. Pursuant to section [65-504](#), Idaho Code, ten (10) points shall be added to the earned rating of any disabled veteran as defined in section [65-502](#), Idaho Code, the widow or widower of any disabled veteran as long as he or she remains unmarried, or the spouse of any eligible disabled veteran who cannot qualify for any public employment because of a service-connected disability. Employment registers shall be established in order of final score except that the names of all five (5) and ten (10) point preference eligibles resulting from any merit system or civil service examination shall be placed on the register in accordance with their augmented rating. Certification of eligibility for appointment to vacancies shall be in accordance with a formula that limits selection by the hiring department from among the twenty-five (25) top ranking available eligibles plus the names of all individuals with scores identical to the twenty-fifth ranking eligible on the register. A register with at least five (5) eligibles shall be adequate. Selective certification shall be permitted when justified by the hiring department, under rules to be made by the division defining adequate justification based on the duties and requirements of the positions. Such examinations need not be held until after the rules have been adopted, the service classified and a pay plan established, but shall be held not later than one (1) year after departments commence participation in the personnel system.

(g) A rule that, whenever practicable, a vacancy in a classified position shall be filled by the promotion of a qualified employee of the agency in which the vacancy occurs. An interagency promotion shall be made through competitive examination and all qualified state employees shall have the opportunity to compete for such promotions. If an employee's name appears within certifiable range on a current register for a higher class of position, he shall be eligible for a transfer and promotion.

(h) A rule for development and maintenance of a system of service ratings and the use of such ratings by all departments in connection with promotions, demotions, retentions, separations and reassignments. The rule shall require that an evaluation of each classified employee shall be made after each two thousand eighty (2,080) hour period of credited state service and that a copy of the evaluation shall be filed with the division.

(i) A rule prohibiting disqualification of any person from taking an examination, from appointment to a position, from promotion, or from holding a position because of race or national origin, color, sex, age, political or religious opinions or affiliations, and providing for right of appeal.

(j) A rule establishing a probation period not to exceed one thousand forty (1,040) hours of credited state service for all appointments and promotions, except that peace officers as defined in section [19-5101](#), Idaho Code, shall be subject to a probation period of two thousand eighty (2,080) hours of credited state service, and for the appointing authority to provide the employee and the administrator a performance evaluation indicating satisfactory or unsatisfactory performance not later than thirty (30) days after the expiration of the probationary period. The rule shall provide that if the appointing authority fails to provide a performance evaluation within thirty (30) days after the expiration of the probationary period, the employee shall be deemed to have satisfactorily completed the probation unless the appointing authority receives approval from the administrator to extend the probationary period for good cause for an additional specified period not to exceed one thousand forty (1,040) hours of credited state service. If an employee is performing in an unsatisfactory manner during the entrance probationary period, the appointing authority shall ask the employee to resign and, if no resignation is submitted, shall terminate the employment of such employee without the right of grievance or appeal.

(k) A rule concerning temporary appointments.

(l) A rule governing the employment of consultants and persons retained under independent contract.

(m) A rule for the disciplinary dismissal, demotion, suspension or other discipline of employees only for cause with reasons given in writing. Such rule shall provide that any of the following reasons shall be proper cause for the disciplinary dismissal, demotion or suspension of any employee in the state classified service:

1. Failure to perform the duties and carry out the obligations imposed by the state constitution, state statutes and rules of the employee's department, or rules of the administrator or the division.
2. Inefficiency, incompetency, or negligence in the performance of duties, or job performance that fails to meet established performance standards.
3. Physical or mental incapability for performing assigned duties.
4. Refusal to accept a reasonable and proper assignment from an authorized supervisor.

5. Insubordination or conduct unbecoming a state employee or conduct detrimental to good order and discipline in the employee's department.
6. Intoxication on duty.
7. Careless, negligent, or improper use or unlawful conversion of state property, equipment or funds.
8. Use of any influence that violates the principles of the merit system in an attempt to secure a promotion or privileges for individual advantage.
9. Conviction of official misconduct in office, or conviction of any crime that is deemed relevant in accordance with section [67-9411](#)(1), Idaho Code.
10. Acceptance of gifts in exchange for influence or favors given in the employee's official capacity.
11. Habitual pattern of failure to report for duty at the assigned place and time.
12. Habitual improper use of sick leave privileges.
13. Unauthorized disclosure of confidential information from official records.
14. Absence without leave.
15. Misstatement or deception in the application for the position.
16. Failure to obtain or maintain a current license or certificate lawfully required as a condition for performing the duties of the job.
17. Prohibited participation in political activities.

(n) A rule to establish procedures for maintenance of a record of the employment history and appropriate information relating to performance of all employees under the personnel system. For the purposes of this rule, the state shall be considered one (1) employer.

(o) Rules to provide for recruitment programs in cooperation with department heads and the employment security agency in keeping with current employment conditions and labor market trends.

(p) Rules to establish procedures for examinations as necessary for the purpose of maintaining current registers from which to fill employment vacancies.

(q) Other rules not inconsistent with the foregoing provisions of this section as may be necessary and proper for the administration and enforcement of this chapter.

(r) A rule concerning "project exempt" appointments.

(s) Rules relating to leave for state employees from official duties including, but not limited to, sick leave, military leave, jury duty, leaves of absence without compensation and such other forms of absence from performance of duties in the course of state employment as may be necessary.

(t) A rule providing up to twenty-five percent (25%) shift differential pay based on local market practices.

(u) A rule to establish guidelines for awarding employee suggestion awards set forth in sections [59-1603](#) and [67-5309D](#), Idaho Code.

(v) A rule to establish the reimbursement of moving expenses for a current or newly hired state employee.

(w) A rule to allow, at the request of the hiring agency, temporary service time to count toward fulfilling entrance probationary requirements as established in subsection (j) of this section.

(x) A rule to allow, at the request of the hiring agency, acting appointment service time to count toward fulfilling promotional probationary requirements as established in subsection (j) of this section.

[67-5309, added 1965, ch. 289, sec. 9, p. 746; am. 1969, ch. 171, sec. 2, p. 510; am. 1972, ch. 52, sec. 1, p. 93; am. 1973, ch. 58, sec. 1, p. 93; am. 1975, ch. 164, sec. 4, p. 434; am. 1976, ch. 367, sec. 2, p. 1207; am. 1979, ch. 36, sec. 1, p. 53; am. 1981, ch. 133, sec. 3, p. 227; am. 1986, ch. 127, sec. 1, p. 327; am. 1986, ch. 133, sec. 4, p. 348; am. 1987, ch. 99, sec. 1, p. 195; am. 1989, ch. 85, sec. 1, p. 146; am. 1990, ch. 161, sec. 1, p. 350; am. 1993, ch. 67, sec. 1, p. 177; am. 1993, ch. 104, sec. 1, p. 263; am. 1994, ch. 159, sec. 4, p. 361; am. 1994, ch. 272, sec. 2, p. 837; am. 1994, ch. 294, sec. 1, p. 928; am. 1997, ch. 163, sec. 1, p. 470; am. 1999, ch. 370, sec. 8, p. 985; am. 2001, ch. 214, sec. 3, p. 846; am. 2002, ch. 134, sec. 2, p. 366; am. 2006, ch. 51, sec. 17, p. 156; am. 2006, ch. 380, sec. 8, p. 1185; am. 2010, ch. 80, sec. 1, p. 157; am. 2011, ch. 98, sec. 1, p. 235; am. 2014, ch. 26, sec. 2, p. 33; am. 2018, ch. 118, sec. 1, p. 250; am. 2020, ch. 44, sec. 5, p. 107; am. 2020, ch. 175, sec. 40, p. 545.]

67-5309A. STATE EMPLOYEE COMPENSATION PHILOSOPHY. (1) It is hereby declared to be the intent of the legislature of the state of Idaho that the goal of a total compensation system for state employees shall be to fund a competitive employee compensation and benefit package that will attract qualified applicants to the work force; retain employees who have a commitment to public service excellence; motivate employees to maintain high standards of productivity; and reward employees for outstanding performance.

(2) The foundation for this philosophy recognizes that state government is a service enterprise in which the state work force provides the most critical role for Idaho citizens. Maintaining a competitive compensation system is an integral, necessary and expected cost of providing the delivery of state services and is based on the following compensation standards:

(a) The state's overall compensation system, which includes both a salary and a benefit component, when taken as a whole shall be competitive with relevant labor market averages.

(b) Advancement in pay shall be based on job performance and market changes.

(c) Pay for performance shall provide faster salary advancement for higher performers based on a merit increase matrix developed by the division of human resources.

(d) All employees below the state's midpoint market average in a salary range who are meeting expectations in the performance of their jobs shall move through the pay range toward the midpoint market average.

(3) It is hereby declared to be legislative intent that regardless of specific budgetary conditions from year to year, it is vital to fund necessary compensation adjustments each year to maintain market competitiveness in the compensation system. In order to provide this funding commitment in difficult fiscal conditions, it may be necessary to increase revenues, or to prioritize and eliminate certain functions or programs in state government, or to reduce the overall number of state employees in a given year, or any combination of such methods.

[67-5309A, added 2006, ch. 380, sec. 10, p. 1188.]

67-5309B. IDAHO COMPENSATION PLAN. (1) The administrator of the division of human resources shall establish benchmark job classifications and shall assign all classifications to a pay grade utilizing the Hay profile method in combination with market data. Pay grades established or revised

by the administrator shall appropriately weigh Hay points and market data to ensure internal equity and market equity within the classified service.

(2) It shall be the responsibility of each department director to prepare a department salary administration plan and corresponding budget plan that supports the core mission of the department and is consistent with the provisions of section [67-5309A](#), Idaho Code.

(3) Advancement in pay shall be based on performance and market changes and be provided in a variety of delivery methods, including ongoing increases, temporary increases and market related payline moves. Market related payline moves may advance all eligible employees as well as the structure to avoid compression in the salary system.

(4) Pay for performance shall provide faster salary advancement for higher performers based on a merit increase matrix developed by the division of human resources. Such matrix shall be based upon the employee's proximity to the state midpoint market average, and the employee's relative performance. Such matrix may be adapted by each agency to meet its specific needs when approved by the division of human resources.

(5) No employee shall advance in a salary range without a performance evaluation on file certifying that the employee meets the performance criteria of the assigned position.

(6) Each employee's work performance shall be evaluated through a format and process approved by the department and the division of human resources. The employee shall be evaluated after one thousand forty (1,040) hours of credited state service from the date of initial appointment or promotion, and thereafter be evaluated after each two thousand eighty (2,080) hours of credited state service. Employees may be eligible for advancement in pay if certified as meeting the performance requirements of this section. However, such in-grade advancement shall not be construed as a vested right. The department director shall designate in writing whether such in-grade advancement is temporary, conditional or permanent. It shall be the specific responsibility of the employee's immediate supervisor to effect the evaluation process. Such evaluation shall be approved by the department director or the director's designee.

(7) All supervisors who evaluate state employees shall receive training in the evaluation format and process to assure fairness and consistency in the evaluation process.

(8) Notwithstanding any other provision of Idaho Code, it is hereby declared to be the policy of the legislature of the state of Idaho that all classified employees of like classification and pay grade allocation shall be treated in a substantially similar manner with reference to personnel benefits.

[67-5309B, added 2006, ch. 380, sec. 12, p. 1189.]

67-5309C. ANNUAL SURVEYS, REPORTS, AND RECOMMENDATIONS. (1) The administrator of the division of human resources shall conduct or approve annual salary and benefit surveys within relevant labor markets to determine salary ranges and benefit packages that represent competitive labor market average rates and benefits provided by private industry and other governmental units.

(2) A report of the results of the annual salary and benefit surveys and recommendations for changes to meet the requirements of section [67-5309A](#), Idaho Code, together with their estimated costs of implementation, shall be submitted to the governor and the legislature not later than the first day

of December of each year. The report must include the total amount of salary savings realized in the previous budget year and must include information regarding the dispensation of such funds, including but not limited to the amount that was reverted back, any funds used for ongoing employee raises, funds used for onetime employee stipends, and funds expended for any other purposes. The recommendations shall include, at a minimum, four (4) components to address the compensation philosophy described in section [67-5309A](#), Idaho Code, and shall include specific funding recommendations for each component:

(a) A recommendation for market-related changes necessary to address systemwide structure adjustments to stay competitive with relevant labor markets. Such recommendation may include a market-related payline adjustment for all eligible employees, as well as the structure, to avoid compression in the salary system.

(b) A recommendation for market-related changes necessary to address specific occupational inequities.

(c) A recommendation for a merit increase component to recognize and reward state employees in the performance of public service to the citizens of Idaho.

(d) A recommendation for any changes to the employee benefit package, including any adjustments to the overall design of the benefit package and/or employee contributions.

(3) The governor shall submit his own recommendations on proposed changes in salaries and benefits to the legislature prior to the seventh legislative day of each session. Such recommendations shall address, at a minimum, the four (4) components and subsequent funding for each component required in this section.

(4) The legislature may, by concurrent resolution, accept, modify, or reject the governor's recommendations, but any such action by the legislature, at a minimum, shall address the four (4) components and subsequent funding of each component required in this section. The failure of the legislature to accept, modify, or reject the recommendations prior to adjournment sine die shall constitute approval of the governor's recommendations, and such recommendations shall be funded through appropriations provided by law. The administrator of the division of human resources shall implement necessary and authorized changes to salary and pay schedule by rule. The director of the department of administration shall implement necessary and authorized changes to benefits.

[67-5309C, added 2006, ch. 380, sec. 14, p. 1190; am. 2021, ch. 271, sec. 1, p. 821.]

67-5309D. OTHER PAY DELIVERY OPTIONS. (1) In addition to pay increases authorized in section [67-5309B](#), Idaho Code, the department director may grant a classified employee bonus pay not to exceed two thousand dollars (\$2,000) in any given fiscal year based upon exemplary performance. Exceptions to the two thousand dollar (\$2,000) limit provided in this subsection may be granted in extraordinary circumstances if approved in advance by the state board of examiners. Departments shall submit a report to the division of financial management and the legislative services office by October 1 on all bonuses granted in the preceding fiscal year.

(2) In addition to pay increases authorized in section [67-5309B](#), Idaho Code, the department director may grant a classified employee an award payment based upon suggestions or recommendations made by the employee that re-

sulted in taxpayer savings as a result of cost savings or greater efficiencies to the department or to the state of Idaho in excess of the amount of the award, and in compliance with the rules for employee suggestion awards promulgated by the division of human resources. The award may be an amount up to twenty-five percent (25%) of the amount determined to be the dollar savings to the state, but not in excess of two thousand dollars (\$2,000). Exceptions to the two thousand dollar (\$2,000) limit provided in this subsection may be granted in extraordinary circumstances if approved in advance by the state board of examiners. Departments shall submit a report to the division of financial management and the legislative services office by October 1 on all employee suggestion awards granted in the preceding fiscal year. Such report shall include any changes made as a direct result of an employee's suggestion and savings resulting therefrom.

(3) In addition to pay increases authorized in section [67-5309B](#), Idaho Code, the department director may grant award pay to a classified employee for recruitment or retention purposes upon completion of at least six (6) months of achieving performance standards. The department director and the administrator of the division of human resources are authorized to seek legal remedies available, including deductions from an employee's accrued vacation funds, from an employee who resigns during the designated period of time after receipt of a recruitment or retention bonus. Departments shall submit a report to the division of financial management and the legislative services office by October 1 on all such awards granted in the preceding fiscal year.

(4) In addition to pay increases authorized in section [67-5309B](#), Idaho Code, department directors may provide a classified employee other nonperformance related pay as provided in this subsection. Departments shall submit a report to the division of financial management and the legislative services office by October 1 on all such awards granted in the preceding fiscal year.

(a) Shift differential pay up to twenty-five percent (25%) of hourly rates depending on local market rates in order to attract and retain qualified staff.

(b) Geographic differential pay in areas of the state where recruitment and retention of qualified staff are difficult due to economic conditions and cost of living.

(c) Employees in the same classification who are similarly situated shall be treated consistently in respect to shift differential and geographic pay differential.

(5) When necessary to obtain or retain qualified personnel in a particular classification, upon petition of the department to the administrator containing acceptable reasons therefor, a higher temporary pay grade may be authorized by the administrator that, if granted, shall be reviewed annually to determine the need for continuance.

(6) In unusual circumstances, with prior approval from the administrators of the division of human resources and the division of financial management, agencies may grant nonperformance related pay to employees, which in no case may exceed five percent (5%) of an employee's base pay. Departments shall submit a report to the division of financial management and the legislative services office by October 1 on all such awards granted in the preceding fiscal year.

(7) Specific pay codes shall be established and maintained in the state controller's office to ensure accurate reporting and monitoring of all pay actions authorized in this section.

[67-5309D, added 2006, ch. 380, sec. 15, p. 1191; am. 2017, ch. 91, sec. 1, p. 238.]

67-5310. SERVICE TO OTHER POLITICAL SUBDIVISIONS. Subject to the approval of the administrator, agreements may be entered into with any political subdivision of the state of Idaho to furnish services and facilities of the division and staff to such political subdivisions in the administration of their personnel on merit principles. Any such agreement shall provide for reimbursement to the division of the reasonable cost of the services or facilities furnished as determined by the administrator.

[67-5310, added 1965, ch. 289, sec. 10, p. 746; am. 1999, ch. 370, sec. 11, p. 991.]

67-5311. LIMITATION OF POLITICAL ACTIVITY. (1) No classified employee of a state department covered by this act shall:

- (a) Use his official authority or influence for the purpose of interfering with an election to or a nomination for office, or affecting the result thereof;
- (b) Directly or indirectly coerce, attempt to coerce, command, or direct any other such officer or employee to pay, lend, or contribute any part of his salary or compensation or anything else of value to any party, committee, organization, agency, or person for political purposes; or
- (c) Be a candidate and hold elective office in any partisan election.
- (2) All such employees shall retain the right to:
 - (a) Register and vote in any election;
 - (b) Express an opinion as an individual privately and publicly on political subjects and candidates;
 - (c) Display a political picture, sticker, badge, or button;
 - (d) Participate in the nonpartisan activities of a civic, community, social, labor, or professional organization, or of a similar organization;
 - (e) Be a member of a political party or other political organization and participate in its activities;
 - (f) Attend a political convention, rally, fund-raising function, or other political gathering;
 - (g) Sign a political petition as an individual;
 - (h) Make a financial contribution to a political party or organization;
 - (i) Take an active part, in support of a candidate, in an election;
 - (j) Be politically active in connection with a question which is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a municipal ordinance or any other question or issue of a similar character;
 - (k) Serve as an election judge or clerk, or in a similar position to perform nonpartisan duties as prescribed by state or local law;
 - (l) Be a candidate and hold elective office in any nonpartisan election;
 - (m) Take an active part in political organization management; and

(n) Otherwise participate fully in public affairs, except as prohibited by law, in a manner which does not materially compromise the neutrality, efficiency, or integrity of the employee's administration of state functions.

[67-5311, added 1965, ch. 289, sec. 11, p. 746; am. 1975, ch. 164, sec. 6, p. 434; am. 1986, ch. 133, sec. 5, p. 352; am. 1987, ch. 168, sec. 1, p. 329.]

67-5312. VIOLATIONS. Any person wilfully violating any of the provisions of this act or of the rules or regulations established thereunder shall be guilty of a misdemeanor.

[67-5312, added 1965, ch. 289, sec. 12, p. 746.]

67-5313. VETERANS' PREFERENCE. Veterans' preference as provided in [title 65](#), chapter 5, Idaho Code, shall be observed except that entrance probationary periods are governed exclusively by the provisions of this chapter.

[67-5313, added 1965, ch. 289, sec. 13, p. 746; am. 1993, ch. 21, sec. 1, p. 79.]

67-5314. METHOD OF FINANCING. (1) There is hereby created in the state treasury the division of human resources fund. All participating departments are hereby authorized and directed to pay out of their funds to the state treasurer their respective shares of the authorized budget of the division. All moneys placed in said fund are hereby perpetually appropriated to the division for the administrative purposes of this chapter. All expenditures from said fund shall be paid out in warrants drawn by the state controller upon presentation of proper vouchers from the administrator.

(2) The division shall allocate costs of its operation to each participating department in the same proportion that the amount of the payroll for classified employees of the department bears to the total amount of the payroll for classified employees of all departments combined and averaged as to the basis for allocation of costs.

(3) Each participating department shall deposit to said fund on a pay period basis as prescribed by the state controller, an amount equal to its share of costs of operation of the human resources division according to the cost allocation formula set forth above. Departmental deposits for each succeeding fiscal year shall be at a percentage rate of salaries and wages for positions subject to this chapter, computed to be sufficient to carry out the intent and all provisions of this chapter as directed by the legislature.

[67-5314, added 1965, ch. 289, sec. 14, p. 746; am. 1977, ch. 307, sec. 4, p. 862; am. 1984, ch. 238, sec. 1, p. 570; am. 1994, ch. 180, sec. 220, p. 557; am. 1999, ch. 370, sec. 12, p. 991.]

67-5315. ESTABLISHMENT AND ADOPTION OF EMPLOYEE PROBLEM SOLVING AND DUE PROCESS PROCEDURES. (1) Each participating department shall, on or before July 1, 1999, establish and adopt an employee problem solving procedure within such department, which shall be reduced to writing and shall be in full compliance with the provisions of the uniform problem solving procedure as adopted by rule by the administrator pursuant to subsection (4) of this

section. The department problem solving procedure shall be approved by the administrator prior to implementation. A copy of the approved problem solving procedure plan shall be furnished and explained to each employee of the department concerned. No employee shall be disciplined or otherwise prejudiced in his employment for exercising his rights under the plan, and department heads shall encourage the use of the plan in the resolution of grievances arising in the course of public employment. A classified employee may file under the problem solving procedure any matter, except that compensation shall not be deemed a proper subject for consideration under the problem solving procedure except as it applies to alleged inequities within a particular agency or department, and except for termination during the entrance probationary period, and except for those matters set forth in subsection (2) of this section.

(2) No action of a participating department relating to a disciplinary dismissal, suspension or demotion, or an involuntary transfer shall be effective until the affected employee shall have received notice and an opportunity to be heard. The employee may then appeal to the Idaho personnel commission those disciplinary matters set forth in section [67-5316](#)(1) (a), Idaho Code.

(3) If the filing concerns a matter which is reviewable pursuant to section [67-5316](#), Idaho Code, the time for appeal to the commission shall not commence to run until the employee has completed the problem solving procedure provided by the department in accordance with the terms thereof or, in the case of disciplinary actions set forth in subsection (2) of this section, until the disciplinary action becomes effective; provided, however, the failure of an employee to pursue the problem solving procedures established within the department shall constitute a waiver of the employee's right of review by the commission.

(4) On or before July 1, 1999, the division of human resources shall adopt a rule defining uniform problem solving and due process procedures for use by all participating departments. With respect to the problem solving procedure, the rule shall provide a complete procedure for all stages of the process, including problem solving meetings with department representatives in the employee's chain of command. With respect to the due process procedure, the rule shall provide that the employee receive notice and an opportunity to be heard before the department decides in favor of disciplinary action. The rule shall also provide for time periods for each step of the procedures. The rule shall provide for the use of an impartial mediator upon agreement between the agency and the employee. The employee shall be entitled to be represented by a person of the employee's own choosing at each step of the procedures, except the initial informal discussion with the immediate supervisor prior to filing under the problem solving procedure.

[(67-5315) I.C., sec. 67-5309A, as added by 1973, ch. 165, sec. 1, p. 316; am. 1975, ch. 164, sec. 5, p. 434; am. 1983, ch. 210, sec. 1, p. 583; am. and redesignated as sec. 67-5315, I.C., 1986, ch. 134, sec. 3, p. 357; am. 1987, ch. 100, sec. 1, p. 198; am. 1997, ch. 364, sec. 1, p. 1073; am. 1999, ch. 370, sec. 13, p. 992.]

67-5316. APPEAL PROCEDURE. (1) Appeals shall be limited to the following:

(a) Any classified employee who has successfully completed the entrance probationary period may, after completing the departmental

due process procedure, appeal a disciplinary dismissal, demotion or suspension.

(b) Any classified employee may, after completing the departmental problem solving procedure, appeal the failure of an appointing authority to provide a right and/or benefit to which the employee is entitled by law.

(c) Any interested person may appeal any decision or action taken by the administrator of the division of human resources or the staff of the division of human resources in the performance of their official duties.

(d) Any interested person may appeal any other matters as may now or later be assigned to the personnel commission by law.

(2) The decision or action of the appointing authority shall be final and conclusive unless a classified employee files an appeal within thirty-five (35) days after completing the departmental problem solving or due process procedure concerning the actions referred to in subsection (1) (a), (b), (c) and (d) of this section. A decision of the administrator shall be final and conclusive as to any other interested person unless an appeal is filed within thirty-five (35) days of written notice of that decision.

(3) The commission shall assign the matter for hearing to a duly appointed hearing officer, who may be a member of the commission.

(4) Where the action in dispute was the discharge, demotion, or suspension, upon determination that proper cause did not in fact exist within the definitions set forth in section [67-5309](#) (m), Idaho Code, or that the action was taken by reason of illegal discrimination, the commission or the hearing officer shall order the reinstatement of the employee in the same position or a position of like status and pay, with or without loss of pay for the period of discharge, demotion, or suspension, or may order such other remedy as may be determined to be appropriate. In all other disputed matters, the commission and the hearing officer may order such action as may be appropriate.

(5) Process and procedure under this act shall be as summary and simple as reasonably may be. The hearing officer appointed by the commission shall have the power to subpoena witnesses, administer oaths, and examine such of the books and records of the parties to a proceeding as relate to the questions in dispute. A verbatim record of the proceedings at hearings before the commission or a hearing officer shall be maintained either by electrical devices or by stenographic means, as the commission or hearing officer may direct, but if any party to the action requests a stenographic record of the proceedings, the record shall be done stenographically. The requesting party shall pay the costs of transcribing the proceedings.

The district court, in and for the county in which any proceedings before the Idaho personnel commission are held, shall have the power to enforce by proper proceedings the attendance and testimony of witnesses, and production and examination of books, papers, and records.

(6) If the parties reach an agreement in regard to the matters of dispute, a memorandum of the agreement shall be filed with the commission and, if approved by it, the memorandum shall be enforceable for all purposes.

(7) The hearing officer shall give written notice of the time and place of hearing, either by personal service or by mail. Service by mail shall be deemed complete when a copy of such notice is deposited in the United States post office, with postage prepaid, addressed to a party's last known address, as shown in the records and files of the commission. An affidavit of personal service shall be filed by the person making the same.

(8) The hearing officer to whom the matter has been assigned shall make such inquiry and investigations as shall be deemed necessary. The hearings shall be held in such place as the hearing officer may designate. The decision of the hearing officer, consisting of such findings of fact, conclusions of law and orders as are necessary, together with the record of the proceedings, shall be filed in the office of the Idaho personnel commission. A copy of the hearing officer's decision shall be immediately sent to the parties by United States mail. The decision of the hearing officer shall be final and conclusive between the parties, unless a petition for review is filed with the commission within thirty-five (35) days. The petition for review shall specifically cite the alleged errors of fact or law made by the hearing officer.

(9) Any party in interest may file in the district court for the county in which any party to the proceedings resides, a certified copy of the final decision of the hearing officer, which the district court shall have the power to enforce by proper proceedings.

(10) Where the decision and order of the hearing officer directed the reinstatement of an employee, the employee shall be reinstated upon receipt of a copy of the decision unless a petition for review is filed.

[67-5316, added 1969, ch. 171, sec. 3, p. 510; am. 1977, ch. 307, sec. 5, p. 863; am. 1979, ch. 192, sec. 2, p. 557; am. 1986, ch. 134, sec. 4, p. 358; am. 1997, ch. 364, sec. 2, p. 1075; am. 1999, ch. 243, sec. 2, p. 620; am. 1999, ch. 370, sec. 14, p. 993; am. 2018, ch. 118, sec. 2, p. 253.]

67-5317. PETITION FOR REVIEW PROCEDURE. (1) If a petition for review is filed, the personnel commission shall review the record of the proceeding before the hearing officer, briefs submitted in accordance with any briefing schedule it orders, and any transcripts submitted of the hearing below. The commission may grant the parties the opportunity to present oral argument, but need not do so if the record clearly shows that the commission or the hearing officer lacks jurisdiction over the appeal or petition for review. The personnel commission may affirm, reverse or modify the decision of the hearing officer, may remand the matter, or may dismiss it for lack of jurisdiction.

(2) Any party in interest may file in the district court for the county in which any party to the proceedings resides, a certified copy of the decision of the commission, which the district court shall have the power to enforce by proper proceedings.

(3) A decision of the commission shall be final and conclusive between the parties, unless within forty-two (42) days of the filing of such decision either party appeals to the district court. Where the decision of the personnel commission directed the reinstatement of an employee, the employee shall be reinstated upon receipt of a copy of the decision unless a stay of the order be granted by the district court upon proper petition.

[67-5317, added 1986, ch. 134, sec. 6, p. 361; am. 1999, ch. 370, sec. 15, p. 994.]

67-5318. APPEAL TO DISTRICT COURT. Upon the appeal of a decision of the commission, the district court may affirm, or set aside and remand the matter to the commission upon the following grounds, and shall not set the same aside on any other grounds:

- (1) That the findings of fact are not based on any substantial, competent evidence;
- (2) That the commission has acted without jurisdiction or in excess of its powers;
- (3) That the findings of fact by the commission do not as a matter of law support the decision.

[67-5318, added 1986, ch. 134, sec. 7, p. 361.]

67-5328. HOURS OF WORK AND OVERTIME. (1) It is hereby declared to be the policy of the legislature of the state of Idaho that all classified employees shall be treated substantially similar with reference to hours of employment. The policy of this state as declared in this act shall not restrict the extension of regular work hour schedules on an overtime basis in those activities and duties where such extension is necessary and authorized, provided that overtime work performed under such extension is compensated for as hereinafter provided.

(2) The appointing authority of any department shall determine the necessity for overtime work and shall provide for cash compensation or compensatory time off for such overtime work for eligible classified officers and employees, subject to the restrictions of applicable federal law.

(3) Cash for overtime and compensatory time shall be paid based on the following criteria:

(a) Classified and nonclassified officers and employees who fall within one (1) or more of the following categories are ineligible for cash compensation or compensatory time for overtime work:

- (i) Elected officials; or
- (ii) Those included in the definition of section [67-5303\(j\)](#), Idaho Code.

(b) Classified and nonclassified employees who are designated as executive, as provided in section [67-5302](#), Idaho Code, and who are not included in the definition of subsection (3) (a) of this section, shall be ineligible for compensatory time or cash compensation for overtime work. Such salaried employees shall report absences in excess of one-half (1/2) day. Unused compensatory time balances in excess of two hundred forty (240) hours as of the date of enactment of this act shall be forfeited on December 31, 2008. Unused compensatory time balances of two hundred forty (240) hours or less shall be forfeited on December 31, 2006. Employees who become executives within their current agency as set forth in section [67-5302\(12\)](#), Idaho Code, shall have twelve (12) months from the date of this act or of appointment, whichever is later, to use any compensatory time balance. After twelve (12) months, any remaining compensatory time will be forfeited. Compensatory time is not transferable, and shall be forfeited at the time of transfer to another appointing authority or upon separation from state service.

(c) Classified and nonclassified employees who are designated as administrative or professional, as provided in the federal fair labor standards act, 29 U.S.C. section 201, et seq., or who are designated as exempt under any other complete exemption in federal law, and who are not included in the definition of either subsection (3) (a) or (3) (b) of this section, shall be ineligible for cash compensation for overtime work unless cash payment is authorized by the state board of examiners for overtime accumulated during unusual or emergency situations, but such classified and nonclassified employees shall be allowed com-

compensatory time off from duty for overtime work. Such compensatory time shall be earned and allowed on a one (1) hour for one (1) hour basis, shall not be transferable, and shall be forfeited at the time of transfer to another appointing authority or upon separation from state service. Compensatory time may be accrued and accumulated up to a maximum of two hundred forty (240) hours. Effective with the first pay period in July, 2008 (beginning date June 15, 2008), compensatory time balances in excess of two hundred forty (240) hours will not continue to accrue until the balance is below the maximum. After the last pay period in June, 2009 (ending date June 13, 2009), balances in excess of two hundred forty (240) hours shall be forfeited.

(d) Classified employees who are not designated as executive, administrative or professional as provided in this section, and who are not included in the definition of subsection (3) (a) of this section or who are not designated as exempt under any other complete exemption in federal law, shall be eligible for cash compensation or compensatory time off from duty for overtime work, subject to the restrictions of applicable federal law. Compensatory time off may be provided in lieu of cash compensation at the discretion of the appointing authority after consultation, in advance, with the employee. Compensatory time off shall be paid at the rate of one and one-half (1 1/2) hours for each overtime hour worked. Compensatory time off which has been earned during any one-half (1/2) fiscal year but not taken by the end of the succeeding one-half (1/2) fiscal year, shall be paid in cash on the first payroll following the close of such succeeding one-half (1/2) fiscal year. Compensatory time not taken at the time of transfer to another appointing authority or upon separation from state service shall be liquidated at the time of such transfer or separation by payment in cash.

(e) Notwithstanding the provisions of this section, employees may be paid for overtime work during a disaster or emergency with the approval of the board of examiners.

(4) Cash compensation for overtime, when paid, shall be at one and one-half (1 1/2) times the hourly rate of that officer's or employee's salary or wage, except for those employees whose positions fall within the definitions of executive, administrative or professional as stated in section [67-5302](#), Idaho Code, who will be paid at their regular hourly rate of pay as provided for in subsection (3) of this section.

(5) Except as provided for in subsection (3) of this section, compensation for authorized overtime work shall be made at the completion of the pay period next following the pay period in which the overtime work occurred and shall be added to the regular salary payment.

[67-5328, added 1971, ch. 327, sec. 3, p. 1289; am. 1977, ch. 307, sec. 7, p. 866; am. 1986, ch. 133, sec. 6, p. 353; am. 2006, ch. 380, sec. 17, p. 1192; am. 2008, ch. 196, sec. 3, p. 623.]

67-5332. CREDITED STATE SERVICE -- APPLICABILITY -- COMPUTATION. (1) For the purposes of payroll, vacation or annual leave, sick leave and other applicable purposes, credited state service shall be earned by:

- (a) Classified officers and employees of any department, commission, division, agency or board of the executive department;
- (b) Such other classified officers and employees as may be prescribed by law or by order of the state board of examiners.

(2) Service in the employ of any of the following units of government, or other similar units, shall not earn credited state service: counties, cities, school districts, community college districts, irrigation districts and highway districts. Service as an independent contractor or consultant is not state service.

(3) One (1) hour of credited state service shall be earned by each eligible state officer or employee for each hour, or major fraction thereof, worked or on approved leave as provided in subsection (4) of this section.

(4) Credited state service shall be earned when on approved leave with pay, on approved vacation leave, approved military leave, on approved sick leave, and holiday leave, but not when compensatory time or earned administrative leave is taken.

(5) Service for retirement purposes shall be as provided in [chapter 13, title 59](#), Idaho Code.

[67-5332, added 1977, ch. 307, sec. 10, p. 869; am. 1979, ch. 197, sec. 2, p. 572; am. 1981, ch. 133, sec. 6, p. 234; am. 1988, ch. 85, sec. 1, p. 169; am. 1999, ch. 243, sec. 3, p. 622; am. 2000, ch. 121, sec. 2, p. 266.]

67-5333. SICK LEAVE. (1) Sick leave shall be computed as follows:

(a) The rate per hour at which sick leave shall accrue to classified officers and employees earning credited state service shall be at the rate represented by the proportion 96/2080. Sick leave shall accrue without limit and shall be transferable from department to department.

(b) Sick leave shall not accrue to any officer or employee on any kind of leave of absence without pay, suspension without pay or layoff. Sick leave shall accrue while an officer or employee is on approved leave with pay, on approved vacation leave, on approved military leave with pay, and on approved sick leave, but not when compensatory time is taken.

(c) All accrued sick leave shall be forfeited at the time of separation from state service and no officer or employee shall be reimbursed for accrued sick leave at the time of separation, except as provided in subsection (2) of this section. If such officer or employee returns to credited state service within three (3) years of such separation, all sick leave credits accrued at the time of separation shall be reinstated, except to the extent that unused sick leave was utilized for the purposes specified in subsection (2) of this section or transferred to a school district or charter district pursuant to section [33-1217](#), Idaho Code.

(d) Sick leave shall be taken on a workday basis. Regularly scheduled days off and officially designated holidays falling within a period of sick leave shall not be counted against sick leave. Sick leave shall not be taken in advance of being earned and shall only be taken in pay periods subsequent to being earned.

(e) In cases where absences for sick leave exceed three (3) consecutive working days, the appointing authority may require verification by a physician or other authorized practitioner.

(f) If an absence for illness or injury extends beyond the sick leave accrued to the credit of the officer or employee, the officer or employee may be granted leave without pay.

(g) The administrator shall prescribe additional requirements for sick leave for classified officers and employees on a part-time or irregu-

lar schedule, for maintaining sick leave records, for funeral leave and such other applicable purposes as necessary.

(2) Unused sick leave may be used as follows:

(a) Upon separation from state employment by retirement in accordance with [chapter 13, title 59](#), or [chapter 1, title 33](#), Idaho Code, an employee's unused sick leave shall be determined based on accumulated sick leave earned subsequent to July 1, 1976, and shall be reported by the employer to the public employee retirement system. Upon separation from state employment by retirement in accordance with [chapter 20, title 1](#), Idaho Code, an employee's unused sick leave shall be determined based on accumulated sick leave earned subsequent to July 1, 2000, and shall be reported by the employer to the public employee retirement system. A sum equal to one-half (1/2), or the maximum amount allowed by paragraph (b) of this subsection, whichever is the lesser, of the monetary value of such unused sick leave, calculated at the rate of pay for such employee at the time of retirement, as determined by the retirement board, shall be transferred from the sick leave account provided by paragraph (c) of this subsection and shall be credited to such employee's retirement account. Such sums shall be used by the Idaho public employee retirement board to pay premiums, as permitted by and subject to applicable federal tax laws and limits, for such health, dental, vision, long-term care, prescription drug and life insurance programs as may be maintained by the state, to the extent of the funds credited to the employee's account pursuant to this section. Upon an employee's death, any unexpended sums remaining in the account shall revert to the sick leave account.

(b) For the purposes of determining the monetary value of unused sick leave, the maximum unused sick leave which may be considered shall be:

(i) During the first ten thousand four hundred (10,400) hours of credited state service, the maximum unused sick leave which may be considered shall be four hundred twenty (420) hours;

(ii) During the second ten thousand four hundred (10,400) hours of credited state service, the maximum unused sick leave which may be considered shall be four hundred eighty (480) hours;

(iii) During the third ten thousand four hundred (10,400) hours of credited state service, the maximum unused sick leave which may be considered shall be five hundred forty (540) hours;

(iv) Thereafter, the maximum unused sick leave which may be considered shall be six hundred (600) hours; and

(v) For any employees of a state educational agency with unused sick leave that includes sick leave credited pursuant to section [33-1217](#), Idaho Code, the credited state service requirements of subsection (2) (b) (i) through (iv) of this section shall not apply, but the maximum unused sick leave which may be considered shall be six hundred (600) hours.

(c) Each employer in state government shall contribute to a sick leave account maintained by the public employee retirement system in trust exclusively for the purpose of the provisions of this section. The retirement board shall serve as trustee of the trust and shall be indemnified to the same extent as provided in section [59-1305](#), Idaho Code. Assets in the trust shall not be assignable or subject to execution, garnishment or attachment or to the operation of any bankruptcy or insolvency law. The rate of such contribution each pay period shall

consist of a percentage of employees' salaries as determined by the board and such rate shall remain in effect until next determined by the board. Any excess balance in the sick leave account shall be invested, and the earnings therefrom shall accrue to the sick leave account except the amount required by the board to defray administrative expenses. Assets of the trust may be commingled for investment purposes with other assets managed by the retirement board. All moneys payable to the sick leave account are hereby perpetually appropriated to the board and shall not be included in its departmental budget. The state insurance fund and public health districts shall be considered employers in state government for purposes of participation under this section.

[67-5333, added 1977, ch. 307, sec. 11, p. 870; am. 1981, ch. 133, sec. 7, p. 234; am. 1999, ch. 243, sec. 4, p. 622; am. 1999, ch. 370, sec. 16, p. 995; am. 2000, ch. 121, sec. 3, p. 267; am. 2006, ch. 380, sec. 18, p. 1194; (67-5339) am. 2006, ch. 150, sec. 2, p. 465; am. 2007, ch. 78, sec. 2, p. 206; am. 2008, ch. 196, sec. 4, p. 625; am. 2009, ch. 164, sec. 1, p. 492; am. 2014, ch. 238, sec. 2, p. 601.]

67-5333A. SICK LEAVE TRANSFERRED -- PUBLIC EDUCATION ENTITY AND STATE EDUCATIONAL AGENCY. Any employee who becomes an eligible employee of a state educational agency immediately following termination of employment with a public education entity shall be credited by the state of Idaho with the amount of any unused sick leave previously accrued upon commencement of state educational agency employment. Any employee who becomes an eligible employee of a public education entity immediately following termination of state educational agency employment shall be credited by the public education entity with the amount of sick leave accrued upon commencement of public education entity employment. After such transfer, the use of sick leave shall be governed by the laws, rules and policies applicable to the state educational agency or public education entity thereafter employing such employee.

[67-5333A, added 2012, ch. 138, sec. 1, p. 365; am. 2016, ch. 199, sec. 2, p. 559.]

67-5333B. SICK LEAVE TRANSFERRED -- FORMER EMPLOYEES OF SELLAND COLLEGE OF APPLIED TECHNOLOGY AT BOISE STATE UNIVERSITY -- STATE EMPLOYMENT. Notwithstanding any other provision of law to the contrary, any former employee of Seland college of applied technology at Boise state university (BSU) whose sick leave accumulated at BSU and was transferred to the college of western Idaho (CWI) pursuant to section [33-2109B](#), Idaho Code, and who, on or before September 1, 2012, was transferred to or otherwise became an eligible employee of the state of Idaho immediately following termination of employment with CWI shall be credited by the state of Idaho with the amount of sick leave transferred to CWI from BSU that remains unused, upon commencement of state employment. After such transfer, the use of sick leave shall be governed by the laws and rules applicable to state employees and by any applicable policies of the state agency or entity thereafter employing such employee.

[67-5333B, added 2012, ch. 138, sec. 2, p. 366.]

67-5334. VACATION TIME. (1) Vacation time shall be computed as follows:

(a) Vacation time shall not accrue to any officer or employee on any kind of leave of absence without pay, suspension without pay or layoff. Vacation leave shall accrue while an officer or employee is on approved leave with pay, on approved vacation leave, on approved military leave with pay, and on approved sick leave, but not when compensatory time is taken.

(b) The rate per hour at which vacation leave shall accrue to eligible classified officers and employees earning credited state service who are covered and nonexempt under the federal fair labor standards act, 29 U.S.C. 201, et seq., shall be at the rate represented by the proportion 96/2080 during the first ten thousand four hundred (10,400) hours of credited state service; at the rate represented by the proportion 120/2080 during the second ten thousand four hundred (10,400) hours of credited state service; at the rate represented by the proportion 144/2080 during the third ten thousand four hundred (10,400) hours of credited state service; and at the rate represented by the proportion 168/2080 thereafter.

(c) Classified officers and employees earning credited state service and defined as an exempt "professional," "administrative," "computer worker" under the federal fair labor standards act, 29 U.S.C. 201, et seq., or who are designated as exempt under any other complete exemption in federal law shall be at the rate represented by the proportion 120/2080 during the first ten thousand four hundred (10,400) hours of credited state service; at the rate represented by the proportion 144/2080 during the second ten thousand four hundred (10,400) hours of credited state service; and at the rate represented by the proportion 168/2080 thereafter.

(d) Classified officers and employees earning credited state service and defined as an exempt "executive" under section [67-5302](#), Idaho Code, shall be at the rate represented by the proportion 200/2080.

(2) Eligibility and use of vacation time shall be determined as follows:

(a) An appointing authority shall permit each officer or employee to take vacation leave to the extent such leave has accrued.

(b) Vacation leave may be accrued and accumulated only as follows, unless amounts in excess of the permitted accumulations have been expressly authorized in writing by the board of examiners during unusual or emergency situations:

During the first ten thousand four hundred (10,400) hours of credited state service, vacation leave may be accrued and accumulated to a maximum of one hundred ninety-two (192) hours; employees classified as "executive" under section [67-5302](#), Idaho Code, may accrue and accumulate vacation leave to a maximum of two hundred (200) hours during this period;

During the second ten thousand four hundred (10,400) hours of credited state service, vacation leave may be accrued and accumulated to a maximum of two hundred forty (240) hours;

During the third ten thousand four hundred (10,400) hours of credited state service, vacation leave may be accrued and accumulated to a maximum of two hundred eighty-eight (288) hours;

After thirty-one thousand two hundred (31,200) hours of credited state service, vacation leave may be accrued and accumulated to a maximum of three hundred thirty-six (336) hours.

(c) Vacation leave shall be transferable from department to department only to the extent that it is accrued and accumulated.

(d) Vacation leave shall not be earned, accrued or accumulated during any pay period in which the maximum accruals and accumulations provided by this section have been met.

(e) Vacation leave not taken shall be compensated for at the time of separation only to the maximum accruals and accumulations allowed by this section.

(f) Vacation leave shall be taken on a workday basis. Regularly scheduled days off and officially designated holidays falling within a period of vacation leave shall not be counted against vacation leave. Vacation leave shall not be taken in advance of being earned and shall only be taken in pay periods subsequent to being earned.

(g) With the approval of the appointing authority for both the transferring and receiving officer or employee, an officer or employee may transfer accrued vacation or sick leave, up to a maximum of eighty (80) hours per fiscal year, to another officer or employee for purposes of sick leave in the event the receiving officer or employee or a family member suffers from a serious illness or injury. The amount transferred shall be converted to sick leave. An officer or employee shall not be allowed to receive more than one hundred sixty (160) hours of transferred leave per fiscal year, and a transfer shall not occur until the receiving employee has exhausted all of his or her accrued sick and vacation leave. An officer or employee shall not be eligible to transfer vacation or sick leave unless his or her balance exceeds eighty (80) hours, and in no event may an officer or employee transfer an amount of accrued leave that would result in an accrued balance of less than eighty (80) hours.

(3) Upon separation from state employment and to the limits allowed by subsection (2) of this section, all classified officers and employees shall receive a lump sum payment for accrued but unused vacation leave at the hourly rate of pay of that officer or employee.

[67-5334, added 1971, ch. 327, sec. 9, p. 1289; am. 1972, ch. 326, sec. 5, p. 806; am. 1977, ch. 307, sec. 12, p. 871; am. 1999, ch. 243, sec. 5, p. 623; am. 2000, ch. 121, sec. 4, p. 268; am. 2006, ch. 380, sec. 19, p. 1196; am. 2008, ch. 196, sec. 5, p. 627; am. 2010, ch. 72, sec. 1, p. 120; am. 2021, ch. 195, sec. 1, p. 522.]

67-5337. MOVING EXPENSE REIMBURSEMENT. In order for the state to attract and retain professional staff, it may be necessary to defray normal intrastate and interstate moving expenses. The head of any department, office or institution of the state shall have the authority to decide whether or not to reimburse moving expenses for current or newly-hired state employees on a case-by-case basis up to ten percent (10%) of the employee's base salary or fifteen thousand dollars (\$15,000), whichever is less, and in compliance with rules for the reimbursement of moving expenses promulgated by the division of human resources. Exceptions to the maximum moving expense reimbursement may be granted if approved in advance by the department director. Agencies shall submit a report to the division of financial management

and the legislative services office by October 1 on all moving expense reimbursements granted in the preceding fiscal year.

[67-5337, added 2006, ch. 380, sec. 20, p. 1198.]

67-5338. RED CROSS DISASTER SERVICES. An employee of the state of Idaho, who is a certified disaster service volunteer, shall be granted paid leave for an aggregate of up to one hundred twenty (120) work hours, consecutively or nonconnectively, in any twelve (12) month period to participate in disaster relief services for the American red cross. Such leave shall be limited to services related to a disaster of level III, or higher, upon the declaration of the governor or the president of the United States, and shall be in the state of Idaho or a state contiguous to the state of Idaho. The request shall be in writing from an official of the American red cross for such employee's services. Leave for disaster services shall be in addition to other paid leave or vacation time provided to employees. Part-time employees shall be entitled to leave under this section based on the proportion they work of a forty (40) hour week.

[67-5338, added 2000, ch. 350, sec. 1, p. 1178.]

67-5339. LOAN REPAYMENT PROGRAM. (1) There is hereby created an educational loan repayment program for eligible physicians, psychologists and mid-level practitioners at state hospital north and state hospital south.

(2) For purposes of this section, the following definitions shall apply:

(a) "Mid-level practitioner" means a position at state hospital north or state hospital south that is licensed as a nurse practitioner pursuant to [chapter 14, title 54](#), Idaho Code, or as a physician assistant pursuant to [chapter 18, title 54](#), Idaho Code.

(b) "Physician" means a physician at state hospital north or state hospital south that is licensed to practice medicine pursuant to [chapter 18, title 54](#), Idaho Code.

(c) "Psychologist" means a psychologist at state hospital north or state hospital south that is licensed to practice psychology pursuant to [chapter 23, title 54](#), Idaho Code.

(3) The educational loan repayment program shall be subject to appropriation by the Idaho legislature.

(4) The educational loan repayment program shall be limited to the repayment of outstanding loans accrued prior to employment in a qualifying job class for undergraduate, graduate and medical school incurred by physicians, psychologists or mid-level practitioners who are eligible for the program under the provisions of this section.

(5) There is hereby created a state hospital governing body. The state hospital governing body shall have the responsibility to oversee the educational loan repayment program and the authority to offer loan repayment disbursements under the program and shall annually review each loan repayment agreement entered into pursuant to subsection (6) of this section and determine whether continuation of the loan repayment program for each participating employee shall occur based upon the number of program participants and the availability of funds. The state hospital governing body shall consist of the administrator of the division of behavioral health, the hospital administrator of state hospital south, the president of the medical staff at state hospital south and the hospital administrator of state hospital north.

The administrator of the division of behavioral health shall be the chair of the state hospital governing body.

(6) Employees eligible for loan repayment under the provisions of this section shall be required to enter into an agreement with the state hospital governing body each year a loan repayment disbursement is offered. The agreement shall include, but not be limited to, the following:

- (a) Disclosure of the employee's current student loan balance;
- (b) Affirmation by the hospital that the employee has provided no less than two thousand eighty (2,080) credited state service hours prior to first disbursement and that the employee has obtained satisfactory performance standards during this time;
- (c) Affirmation that any subsequent disbursements occur one (1) year or two thousand eighty (2,080) credited state service hours after the previous disbursement and that the employee has obtained satisfactory performance standards during this time; and
- (d) Confirmation that any prior disbursements made under this program were used to pay outstanding student loans.

(7) Loan repayment disbursements made pursuant to this section shall be limited to a period of four (4) years.

(8) Loan repayment disbursements made pursuant to this section shall be made as follows:

(a) For physician reimbursements, a single yearly reimbursement may be made to or on behalf of an eligible physician not to exceed:

- (i) Fifteen thousand dollars (\$15,000) for the employee's first year of eligibility;
- (ii) Fifteen thousand dollars (\$15,000) for the employee's second year of eligibility;
- (iii) Twenty thousand dollars (\$20,000) for the employee's third year of eligibility; and
- (iv) Twenty-five thousand dollars (\$25,000) for the employee's fourth year of eligibility.

(b) For psychologist reimbursements, a single yearly reimbursement may be made to or on behalf of an eligible psychologist not to exceed:

- (i) Ten thousand dollars (\$10,000) for the employee's first year of eligibility;
- (ii) Ten thousand dollars (\$10,000) for the employee's second year of eligibility;
- (iii) Fifteen thousand dollars (\$15,000) for the employee's third year of eligibility; and
- (iv) Fifteen thousand dollars (\$15,000) for the employee's fourth year of eligibility.

(c) For mid-level practitioner reimbursements, a single yearly reimbursement may be made to or on behalf of an eligible mid-level practitioner not to exceed:

- (i) Ten thousand dollars (\$10,000) for the employee's first year of eligibility;
- (ii) Ten thousand dollars (\$10,000) for the employee's second year of eligibility;
- (iii) Fifteen thousand dollars (\$15,000) for the employee's third year of eligibility; and
- (iv) Fifteen thousand dollars (\$15,000) for the employee's fourth year of eligibility.

67-5340. LEAVE OF ABSENCE WITH PAY IN LIEU OF WORKMEN'S COMPENSATION BENEFITS. (1) Whenever any employee of the state of Idaho who is categorized as a police officer for retirement purposes pursuant to section [59-1302A](#), Idaho Code, is physically disabled by a serious injury arising out of and in the course of his duties, and the injury is induced by a second party, he shall be entitled, regardless of his period of service with the department, to a leave of absence while so disabled without loss of salary or benefits for a period of not more than one (1) year. Any workmen's compensation payments made to the employee shall revert back to the employee's department. For the purposes of this section, "serious injury" means an injury which renders the police officer incapable of performing the regularly assigned duties of his regular employment position or office and "injury induced by a second party" means an injury induced by the negligent, malicious, or intentional act or omission of another person during a chargeable misdemeanor or felony.

(2) It shall be the duty of the director of the applicable department to determine whether or not the disability referred to in subsection (1) of this section arose out of and in the course of duty. The director of the applicable department shall also determine when such disability ceases.

(3) Payment of salary pursuant to this section shall not preclude the disabled police officer from receiving regular medical, surgical or hospital coverage as provided pursuant to section [67-5761](#), Idaho Code.

(4) If a police officer is disabled for more than one (1) year then the regular disability insurance provisions of the Idaho Code shall apply to any period of disability beyond the one (1) year period of disability covered by this section.

(5) The provisions of this section shall not apply to periods of disability which occur subsequent to termination of employment by resignation, retirement, or dismissal. When the provisions of this section do not apply, the employee shall be eligible for those benefits which would apply if this section had not been enacted.

[67-5340, added 1988, ch. 376, sec. 1, p. 1109.]

67-5342. SEVERANCE PAY FOR STATE EMPLOYEES. Upon termination from state service, no classified or exempt employee shall be eligible for severance pay and no employer shall provide or pay severance pay to such an employee or former employee. As used in this section, "severance pay" shall mean money, exclusive of wages or salary, vacation leave payoff, compensatory time leave and earned administrative leave payoff, paid to a classified or exempt employee who resigns from state service of his own volition and not under duress.

[67-5342, added 1993, ch. 336, sec. 1, p. 1265; am. 2006, ch. 380, sec. 21, p. 1198.]

67-5342A. SEVERANCE PAY -- PURCHASE OF MEMBERSHIP SERVICE PROHIBITED. The provisions of this section shall apply to classified or exempt state employees of the legislative and executive branches of government. For purposes of this chapter, the term "severance pay" as provided for in section [67-5342](#), Idaho Code, shall include any payment by an employer toward the purchase of membership service pursuant to section [59-1363](#), Idaho Code. Provided however, that nothing in this section shall change any rights provided pursuant to section [59-1362](#), Idaho Code, related to active duty service.

[67-5342A, added 2010, ch. 173, sec. 1, p. 356.]

67-5343. LEAVE OF ABSENCE FOR BONE MARROW OR ORGAN DONATION. (1) A full-time employee shall be granted a leave of absence for the time specified for the following purposes:

(a) Five (5) workdays to serve as a bone marrow donor if the employee provides the appointing authority written verification that the employee is to serve as a bone marrow donor; and

(b) Thirty (30) workdays to serve as a human organ donor if the employee provides the appointing authority written verification that the employee is to serve as a human organ donor.

(2) An employee who is granted a leave of absence pursuant to the provisions of this section shall receive his compensation without interruption during the leave of absence. For purposes of determining longevity, performance, pay advancement and performance awards and for receipt of any benefit that may be affected by a leave of absence, the service of the employee shall be considered uninterrupted by the leave of absence.

(3) The appointing authority shall not penalize an employee for requesting or obtaining a leave of absence pursuant to the provisions of this section.

(4) The leave authorized by this section may be requested by the employee only if the employee is the person who is serving as the donor.

(5) Full-time employees shall be notified of the leave offered pursuant to this section each April in an electronic message distributed by the state controller's office.

[67-5343, added 2006, ch. 257, sec. 1, p. 794; am. 2018, ch. 98, sec. 2, p. 207.]